

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
W.P.NO.1559 OF 2006

Vithal Nagu Kamble and 15
Ors. ..Petitioners
Vs.
State of Mah. & 4 Ors. ..Respondents

...
Mr.S.D.Rupawate i/b Ms.Daksha M.Shah Advocate
for Petitioners
Mr.Milind More AGP for Respondent No.1
Mrs.P.A.Purandhare Advocate for Respondent No.2
Mr.G.D.Utangale Adv. for Respondent No.3
Mr.C.U.Singh, Senior Counsel with Mr.Sanjay
Udeshi i/b Sanjay Udeshi and Co. for
Respondent No.4.
Mr.S.K.Talsania Senior Counsel with
Mr.Ramchandra Yadav for Respondent No. 5
...

CORAM: F.I.REBELLO AND
SMT.V.K.TAHILRAMANI, JJ.
DATE : AUGUST 1, 2006

P.C.

1. This petition is totally an abuse of the process of the Court by the petitioner. From the affidavit of N.D.Bhole, Administrator of Kachkarkhana Co.Operative Housing Society Ltd. it is clear that Petitioner Nos.2, 15 and 16 are the members of the society. The society was earlier party to the proceedings in W.P.No. 2243 of 2004 as also in W.P.No. 2124 of 2005. Apart from that, petitioner Nos.1,5,6,7,8,9,10,11,12,13 and 14 are claiming through the original members who had expired. It is

not as if therefore that other petitioners apart from petitioner Nos. 2, 15 and 16 are claiming their independent right on the basis that their predecessors-in-title were the original tenants and therefore, the members of the society. Further the petitioner Nos.3,6,7,9,12,13,14,15 and 16 have obtained from the developers the keys of the flats in the new building and others have been offered the keys.

2. In spite of this background and earlier litigation in this Court, these very petitioners are contending that the development should not have been done under D.C.Regulation 33(7) but ought to have been under D.C.Regulation 33(1).

3. Once the society was a party and this Court has held that 92 tenants are entitled to be put in possession, the contention of these petitioners now coming to this Court and pursuing their claim contrary to the stand of the society, cannot be accepted. The developer in the meantime have substantially spent on the development and developer has constructed the rehab building in which many of the petitioners have accepted the possession of the

premises and to the others allotment letters have been issued. We are therefore, of the clear opinion that this would not be a fit case for us to exercise our extra ordinary jurisdiction. Petition therefore, stands dismissed.

[F.I.REBELLO, J.]

[SMT.V.K.TAHILRAMANI, J.]